

REMARKS

Claims 1-78 and 80-82 are pending. No changes to the claims are made by this Amendment. Reconsideration of the rejections in view of the remarks below is requested.

It is noted that the PTOL-326 lists the status of the claims incorrectly. Claims 78 is not listed as pending, while claim 79 is listed as pending. Claim 78 is pending, and claim 79 was canceled in the last response. It is noted that claim 78 has not been rejected based on prior art.

Obviousness-type Double Patenting Rejections

In the Office Action, claims 1-85<sup>1</sup> are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over:

Claims 1-41 of copending application no. 10/715,562 in view of U.S. Patent No. 4,695,493 to Friedlander et al. (Friedlander);

Claims 1-23 of copending application no. 10/880,607 in view of Friedlander;

Claims 1-21 of copending application no. 11/023,412 in view of Friedlander;

Claims 1-19 of copending application no. 11/023,413 in view of Friedlander; and

Claims 1-20 of copending application no. 11/034,255 in view of Friedlander.

The explanation for each rejection is virtually identical and merely states that both articles contain coverings for use on an exterior surface [sic: and] are made with fibrous layers, moldable layers and release sheets covering the back surface of the moldable layer. Friedlander is cited as teaching of an elongate composite strip comprising a layer of fibrous floor covering material (4, 6, 8), an adhesive layer (16), an impermeable foil layer barrier layer (12), an attachment layer (18), and a release paper (20) on the attachment layer. No explanation as to how Friedlander is being applied in the rejection is provided. Moreover, no reasons are presented as to why a person of ordinary skill in the art would conclude that the

<sup>1</sup> Claims 1-85 are rejected, but only claims 1-78 and 80-82 are pending.

invention defined in the claims at issue would have been an obvious variation of the invention defined in the claims in the application. Finally, the specific limitations of each claim have not been addressed. The rejections are improper and do not present a prima facie case of obviousness, as required.

As noted in the last response, an analysis employed in an obviousness-type double patenting rejection parallels the guidelines for analysis of a 35 U.S.C. §103 obviousness determination. *In re Braat*, 937 F.2d 589, 19 USPQ2d 1289 (Fed. Cir. 1991); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985). The following factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. §103 must also be employed when making an obvious-type double patenting analysis. These factual inquiries include:

- (A) determining the scope and content of a patent (or application) claim relative to a claim in the application at issue;
- (B) determining the differences between the scope and content of the patent (or application) claim as determined in (A) and the claim in the application at issue;
- (C) determining the level of ordinary skill in the pertinent art; and
- (D) evaluating any objective indicia of nonobviousness.

The conclusion of obviousness-type double patenting is made in light of these factual determinations. Any obviousness-type double patenting rejection should make clear:

- (A) the differences between the inventions defined by the conflicting claims (i.e., a claim in the patent (or application) compared to a claim in the application); and
- (B) the reasons why a person of ordinary skill in the art would conclude that the invention defined in the claim at issue would have been an obvious variation of the invention defined in a claim in the patent.

None of these determinations have been made in the Office Action, and in particular the differences between the claims have not been identified and reasons why a conclusion of obviousness would be reached have not been provided. Therefore, the rejections are improper and should be withdrawn.

It is noted that application serial no. 10/880,607 is now abandoned, so the rejection based on this application is moot.

#### Indefiniteness Rejection

Claims 1-35 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite. The phrase "moldable layer" in claims 1, 4, 9, 17, 19, 24-26, 28, and 32 is deemed unclear. The Office Action states that it is unclear from the claim language and the specification what is meant by moldable layer.

The specification is quite clear in this regard and provides ample explanation with example compositions and numerous qualities of the layer, as evidenced below. Moreover, the meaning of the term *moldable* would be readily recognized by one of ordinary skill in the art of adhesives and has additionally been used in its conventional sense wherein to mold means *to shape or to fit closely*. The Examiner's attention is directed to the following instances explaining the moldable layer in the specification, which should answer each of the questions raised:

"The lower layer of the covering strip can be formed as a moldable layer that flows and fills voids in irregular, existing surfaces of boards to provide a mechanical bond with the board. The lower layer can have adhesive properties to adhere to the surface of the board as well and can be formed as a hydrophobic, homogenous, sealing layer." (*See paragraph [0014].*)

"The moldable layer 34 is preferably made of a pressure sensitive adhesive (PSA) that is a hot melt, meaning it is applied to the fibrous layer 30 at 100% solids. Suitable adhesive compositions are available from many different manufacturers and can be used as a hot melt adhesive applied on the back surface 32...It is preferred that hydrophilic adhesives not be used, as such adhesives would inhibit drying of the strip 20 during exterior use." (*See paragraph [0057].*)

"Any type of moldable or malleable material application is suitable as layer 34 as long as it forms a strong, yet flexible integral structure providing a fibrous layer 30 with a moldable layer 34 directly bonded thereto and an outer surface having an adhesive quality. As noted above, the moldable layer 34 may be a single material, such as a PSA. The layer 34 may also be a composite layer formed of a malleable material, such as silicon caulking, green rubber or other flowable material, with an inherent adhesive quality or an adhesive layer applied to the outer surface. If the moldable

material is not inherently adhesive, it may be desirable to apply the moldable layer 34 to the back surface 32 of the fibrous layer 30 by an adhesive or other secure attachment technique. The viscosity of the moldable material may also be varied to affect penetration or wetting into the board. Lowering the viscosity, increases the wettability (tack) of the adhesive, thereby allowing it to penetrate deeper into the surface 14 of the board 12. The moldable material functions as a waterproof layer based on its composition and/or thickness. It is preferred that the material be free of foamed voids." (*See paragraph [0058].*)

"The moldable layer 34 is of sufficient thickness to conform and provide a secure attachment to the exposed surface 14 of the board 12." (*See paragraph [0075].*)

"The moldable layer 34, particularly the hot melt pressure-sensitive adhesive of the preferred embodiment, is selected to provide a high level of adhesion so that the covering strip 20 initially securely bonds to the exposed surfaces 14 of the deck 10 or other structure. The tack or wettability of the adhesive is sufficient that it applies adhesive contact across substantially the full width of the exposed surface 14 of each board 12, but does not necessarily engage into individual cracks in the wood immediately upon contact. The initial attachment is therefore provided by the aggressive action of the adhesive surface of the moldable layer 34. The layer 34 creates a bond between the fibers of layer 30 and the exposed surface 14 of the deck 10." (*See paragraph [0076].*)

"In fact, over time, due to various factors, the tack of the adhesive surface 36 of the moldable layer 34 may deteriorate. The thickness of the moldable layer 34 is therefore designed so that over time the material is molded by additional pressure of normal exterior use into the exposed surface 14 of the wood so that it engages into cracks and other distortions in the board 12 to provide a secondary mechanical bond caused by the molding action. Thus, even if the tack of the adhesive layer 34 has deteriorated, a mechanical interlock remains due to the molding or flow of the moldable layer 34 into the discontinuities in the exposed surface 14. The moldable layer 34 thus mates with the surface 14 and provides a secure attachment in the long term between the fibers of layer 30 and the board 12." (*See paragraph [0077].*)

"In addition, use of a pressure sensitive adhesive material provides a resultant plastic material that is relatively moldable allowing the moldable layer 34 to conform to and engage the cracks and other discontinuities in the surface 14 of the board 12...Complete coverage of the moldable layer 34 in accordance with this invention can ensure that voids are not created during application." (*See paragraph [0079].*)

As the specification clearly explains the possible compositions and the desired qualities of the moldable layer in detail as shown above, it is submitted that the term is clear and definite and that one of ordinary skill in the art would readily understand what is meant by the claimed moldable layer. The rejection should be withdrawn. Claims 1-35 are definite.

Prior Art Rejections

Claims 36-40, 47, 57-60, and 67 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,695,493 to Friedlander et al. (Friedlander).

According to the Office Action, Friedlander discloses an elongate composite strip comprising a layer of fibrous floor covering material (4, 6, 8), an adhesive layer (16), an impermeable foil layer barrier layer (12), an attachment layer (18), and a release paper (20) on the attachment layer. The Office Action states that the foil barrier layer has a thickness less than 0.001 inch, citing to col. 2, lines 45-48. However, this is incorrect as this passage in Friedlander refers to a shape retention web of a thickness *between about 1 to 100 mil*, which is **greater** than 1 mil. This range does not meet the claimed thickness of **less than 0.001 inch** (less than 1 mil.) This difference is significant because Friedlander's thickness allows the metal to retain a shape. As stated in col. 2, lines 34 – 44, Friedlander's assembly is capable of being formed into a stable three-dimensional contoured shape that will remain substantially unchanged in any of its three dimensions throughout storage and during its normal use. In distinction, the claimed invention uses a very thin foil so that the composite strip remains flexible, which is important during installation because the strip must be unrolled and steered along an irregular board for proper placement and adhesion. As each feature of claim 36 is not met by Friedlander, there can be no anticipation. Claim 36 is allowable.

The Office Action responds to these arguments by stating that a range of 1 to 10 mil "reads" about less than 1 mil since 1 mil may be less than or greater than the actual thickness and that Friedlander's structure is flaccid (defined by the Examiner as not firm or stiff) since the article is shaped by hand. However, this argument is not understood since Friedlander's article retains its shape and therefore is stiff. Moreover, less than 1 mil is clearly not within the range disclosed in Friedlander and as such functions differently than Friedlander's shape

retaining web. Each and every feature must be exactly met in order for the prior art to anticipate a claim. This is not the case. Claim 36 is allowable.

Dependent claims 37, 38 and 47 are allowable for at least the above reasons and for the additional features recited therein. It is noted that claim 47 recites that the barrier layer is encapsulated between the adhesive layer and the attachment layer by an interconnection of the edges of the adhesive layer and the attachment layer at the edges of the barrier layer. The Office Action points to Fig. 1 and col. 3, lines 21 – 40, but this section does not describe encapsulation. In fact, the edges of the layers in Fig. 1 are clearly exposed, and thus not encapsulated. Further, col. 7, lines 8 – 15, describe how flat sections are cut from the carpet assembly and coldpressed into the three dimensional contour. Friedlander's carpet assembly does not have barrier layer that is encapsulated by an interconnection of the edges of the adhesive layer and the attachment layer as claimed.

Claim 57 recites that the barrier layer is flaccid, not that the thickness is less than 0.001 inch as asserted in the Office Action. Friedlander's shape retaining web is not flaccid, and therefore Friedlander does not anticipate claim 57. Claim 57 is allowable.

Dependent claims 58, 59, and 67 are allowable for at least the above reasons and for the additional features recited therein. Claim 59 states that the composite strip provides no resistance to bending and that it follows by gravity any undulations in the flat surface. The shape retaining web of Friedlander obviously resists bending and does not follow the shape of surface due to gravity or it would not retain its shape. Claim 67 recites that the barrier layer is encapsulated, similar to claim 47 discussed above, which is not disclosed by Friedlander.

Claims 1-4, 9-17, 22-26, 41-46 and 61-66 are rejected under 35 U.S.C. §103(a) as being unpatentable over Friedlander in view of U.S. Patent No. 4,554,194 to Haas et al. (Haas).

The Office Action cites Friedlander as showing a carpet having an impermeable foil barrier layer secured to the back surface of the fibrous layer and a moldable layer covering the foil barrier layer. The foil layer is a shape retaining web having a thickness between 1-100 mils. Haas is added to teach of a release sheet that has three separate release strips and a moldable layer applied at a coating weight of between 185 and 600 gsm (citing col. 11, lines 37-38.) The Office Action asserts that it would have been obvious to have provided the coating weights of the moldable layer and attachment layer of Friedlander to have a flooring that is capable of maintaining a relatively good bond with the covered surface despite temperature and moisture fluctuations as taught by Haas.

This reasoning is not understood since Haas is specifically designed to form a loose bond with the floor and is intended for indoor use. The Office Action describes Haas as disclosing a carpet in the form of a band that may be provided in a roll. The carpet comprises a base layer 5, a bonding layer 2, and a plurality of fibers 4. The fibers 4 are stitched into the base layer 4 and extend into the bonding layer 2. The underside of the carpet has protuberances 23 of the fibers 4 that protrude outwardly from the bonding layer 2, as explained in col. 5, lines 26-40. The underside 21 can contain an adhesive or consist of an adhesive or an adhesive material, such as layer 3, spots 6, strips 7-9, or projections 11, can be applied to the bonding layer 2.

It is unclear as to which element in Haas is being read on the claimed adhesive layer in the Office Action since bonding layer 2 is specifically identified as the adhesive layer, yet references are also made in the rejection to other distinct embodiments of adhesive. See references to col. 7, lines 1-9 (which discusses the adhesive layer 3 and projections 11); col. 12, lines 60-62 (which is claim 1 reciting the adhesive layer overlying the first side of the first layer); col. 11, lines 37-38 (which refers to the bonding layer *beneath* the adhesive); col. 5, lines 46-60 (which refers to the underside 21 containing an adhesive); col. 11, lines 43-46

(which recites the combined thickness of the polypropylene band (the fiber layer) and the foamed polyurethane layer *beneath* the adhesive); and col. 5, lines 53-60 (which discusses selected regions of adhesive in bonding layer 2).

Further, protective foil 12 is identified as a release sheet secured to the adhesive layer. However, the protective foil 12 is only described as being secured to the adhesive layer, which in most embodiments is not the bonding layer 2, although this is repeatedly identified in the Office Action as the adhesive layer. It appears that the Office Action has taken various descriptions from different embodiments and is randomly applying them simply to meet the claim features. For example, the Office Action states that hot melt adhesive 2 covers the entire back surface at a volume of at least 185 to 530 gsm, pointing to col. 11, lines 37-38. This section of the specification describes an example in which a bonding layer of foamed polyurethane has a unit weight of 530 gsm, while the adhesive is applied in discrete spots in an amount of 35 gsm. The adhesive in this embodiment, to which a foil would be presumably be secured<sup>2</sup>, is only applied in an amount of 35 gsm.

Thus, modifying Friedlander in view of the teachings of Haas would not result in the claimed features as Haas does not disclose any embodiment that has an adhesive layer formed on the back surface of a fibrous layer, an impermeable barrier layer secured to the back surface of the fibrous layer with the adhesive layer, a moldable layer applied to the entire impermeable barrier layer applied at a coating weight of at least about 185 gsm and a release sheet. The only specific reference in Haas to the amount of an adhesive layer to which a release sheet could be secured are the examples I – IV, which describe adhesive layers of 35 gsm, 65 gsm, 45 gsm, and 60 gsm, respectively. None of these amounts remotely approach the claimed moldable layer applied at a coating weight of at least about 185 gsm.

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<sup>2</sup> It is noted that such disclosure is absent and has not been asserted as inherent.



The combination of Friedlander and Haas would not result in a covering as claimed. Friedlander's carpet assembly is intended to retain different three dimensional shapes and thus is rigid. It would not have been obvious to look to Haas' carpet assembly designed to loosely adhere to a floor for a suggestion for modifying Friedlander to result in the claimed invention. Further, the combination is improper as there is no suggestion in the prior art for making the suggested modifications. It is noted that even if the suggested modifications could be properly made, all of the features of claim 1 would not be met by such a combination as explained above. Claim 1 is allowable.

Dependent claims 2-4, 9-17, and 22-26, which depend from claim 1, are also not rendered obvious by Friedlander in view of Haas for the reasons above and for the additional features recited therein. Note especially that claim 3 recites that the barrier layer is foil supported on plastic film, which was not addressed in the Office Action. Claim 4 recites that the barrier layer is encapsulated between the adhesive layer and moldable layer, which is not disclosed in Friedlander.

Claims 41 - 46, which depend from claim 36, and claims 61-66, which depend from claim 57, are allowable for at least the reasons noted above with respect to the deficiencies of Friedlander that are not remedied by Haas. Claims 46 and 66 additionally recite that the barrier layer is foil supported on plastic film, which has not been addressed or shown.

Claims 5-8 and 19 are rejected under 35 U.S.C. §103(a) as being unpatentable over Friedlander in view of Haas and further in view of U.S. Patent No. 6,426,129 to Kalwara et al. (Kalwara).

Kalwara is cited for teaching of a composite strip having a predetermined width less than 12 inches, a predetermined length at least 25 feet and a release sheet with free edges. It is asserted in the Office Action that it would have been obvious to have provided the claimed

lengths and widths in Friedlander's covering in order to have a release liner that is easy to disengage from the tacky surface of the adhesive layer as taught by Kalwara.

Kalwara is directed to an adhesive rubber article for use in the roofing industry. There is no disclosure of moldable layer for a fibrous covering that is applied at a coating weight of at least about 185 gsm. Further there is no suggestion for modifying Friedlander's shape retaining web, which results in a rigid composite carpet assembly. As such, Kalwara does not remedy the deficiencies of Friedlander and Haas. Moreover, there is no suggestion in the prior art for why it would have been obvious for someone of ordinary skill in the floor covering art to look for roofing membranes for motivation to modify Friedlander's carpet panels. Absent proper motivation, a prima facie case of obviousness cannot be made. As such, claims 5-8 and 19 are not rendered obvious over Friedlander and Haas in view of Kalwara and are patentable.

The Office Action rebuts the contention that Kalwara is not analogous by asserting that Kalwara is reasonably pertinent to the particular problem that application was concerned with, citing *In re Oetiker*, and identifies the problem as the covering having the features recited in the claims in this application including the release sheet with free edges. However, using a release sheet with free edges and a covering shaped to fit an elongated board is Applicant's **solution**, not the problem. *In re Oetiker* held that the combination of elements from non-analogous sources, in a manner that reconstructs the applicant's invention only with the benefit of hindsight, is insufficient to present a prima facie case of obviousness. (977 F.2d at 1447). In this case, the Office Action does not make a case that the sources are analogous, but rather asserts that there is a commonality in the solution. "Although the suggestion to combine references may flow from the nature of the problem, '[d]efining the problem in terms of its solution reveals improper hindsight in the selection of the prior art relevant to obviousness.'" (internal citation omitted) *Ecolochem, Inc. v. S. Cal. Edison Co.*,

227 F.3d 1361, 1372 (Fed. Cir. 2000), quoting *Monarch Knitting Mach. Corp. v. Sulzer Morat GmbH*, 139 F.3d 877, 881 (Fed. Cir. 1998).

Using Applicant's solution as motivation shows improper hindsight in this case. The problem, as noted in the specification, is how to obtain proper alignment of the strip with respect to the narrow board during installation and how to grasp the edges of the release sheet during installation on this board. This is not a problem faced by Kalwara, which is directed to overlapping compound bitumen roofing membranes. Absent proper motivation, a *prima facie* case of obviousness cannot be made.

Claims 18, 48-55, 68-71, 73-75, 77, 79, 80, and 82 are rejected under 35 U.S.C. §103(a) as being unpatentable over Friedlander in view of Haas and further in view of U.S. Patent No. 3,937,640 to Tajima et al. (Tajima).

Tajima shows a laminated bituminous roofing membrane and is cited for teaching of a release sheet with a central release sheet. Tajima does not remedy the deficiencies of Friedlander and Haas noted above with respect to the non-rigid composite strip and does not teach of the claimed coating weight. So, at least these features are not met by the asserted combination of prior art. Further, there is no suggestion in the prior art to combine a bituminous roofing membrane with a automobile carpet piece. It is also noted that claim 18 recites that the middle release sheet overlaps the release strips on the edges, which is not disclosed or even suggested by Tajima. Claim 18 should be allowed.

Claims 48-55 depend from claim 36 and are allowable for the reasons explained above that Friedlander fails to disclose a foil having a thickness of less than 0.001 inch since neither Haas nor Tajima remedies this deficiency. Further, there is no suggestion in the prior art to make such a combination. It is additionally noted that claim 54 recites that the positioning strip release portion has two side edges each of which overlaps with and covers a side edge of a respective one of the remaining strip release portions, which is entirely absent

from Tajima. Claims 68-71 and 73-35 depend from claim 57, which is also not anticipated by Friedlander as explained above. Tajima does not remedy the deficiency and moreover is not properly combinable with Friedlander. Again, claim 70 recites an overlap of the positioning strip edges, which is not disclosed or suggested by Tajima.

Independent claim 77 is directed to a composite elongate strip including a release sheet divided into a positioning strip release portion and a remaining strip release portion, wherein the positioning strip release portion has a side edge that overlaps with and covers a side edge of the remaining strip release portion so as to define a free side edge portion. As acknowledged in the Office Action, Friedlander's release paper does not have such portions. Tajima shows release portions 14 in FIG. 3B, but they are side by side and are formed by perforations or notches. Accordingly, there can be no overlap between the portions since they are formed in a single sheet. Friedlander's release paper modified Haas and/or by the teaching of Tajima therefore does not meet the features of claim 77. Moreover, there is no suggestion in the prior art that one of ordinary skill in the carpeting art would look to roofing membranes for a teaching. Thus, a prima facie case of obviousness based on a combination of Friedlander and Tajima has not been made. Claim 77 is allowable.

Dependent claims 80 and 82 are allowable for at least the above reasons and for the additional features recited therein. In particular, claim 80 recites that the remaining strip release portion has an outer free edge that extends beyond the attachment layer. This is not shown by Friedlander, Haas or Tajima. It is noted that claim 79 has been canceled.

The Office Action rebuts the contention that Tajima is not analogous by asserting that Tajima is reasonably pertinent to the particular problem that application was concerned with, citing *In re Oetiker*, and identifies the problem as the release sheet having a separate central release sheet and being formed with a plurality of strips or three separably removable strips. However, using separate sheets is Applicant's **solution**, not the problem. *In re Oetiker* held

that the combination of elements from non-analogous sources, in a manner that reconstructs the applicant's invention only with the benefit of hindsight, is insufficient to present a prima facie case of obviousness. (977 F.2d at 1447). In this case, the Office Action does not make a case that the sources are analogous, but rather asserts that there is a commonality in the solution. "Although the suggestion to combine references may flow from the nature of the problem, '[d]efining the problem in terms of its solution reveals improper hindsight in the selection of the prior art relevant to obviousness.'" (internal citation omitted) *Ecolochem, Inc. v. S. Cal. Edison Co.*, 227 F.3d 1361, 1372 (Fed. Cir. 2000), quoting *Monarch Knitting Mach. Corp. v. Sulzer Morat GmbH*, 139 F.3d 877, 881 (Fed. Cir. 1998).

Using Applicant's solution as motivation shows improper hindsight in this case. The problem, as noted in the specification, is how to obtain proper alignment of the strip with respect to the narrow board during installation. This is not a problem faced by Tajima, which is directed to overlapping compound bitumen roofing membranes. Absent proper motivation, a prima facie case of obviousness cannot be made.

Claims 20, 21, 56, 72, 76, 81, and 85 are rejected under 35 U.S.C. §103(a) as being unpatentable over Friedlander in view of Haas and Tajima and further in view of U.S. Patent No.4,849,267 to Ward et al.

Ward shows arrows printed on the secondary backing 14 that are visible through the transparent release cover. The release cover does not extend past the edges of the carpet pieces. Ward merely teaches of printing indicia on the carpet backing and does not remedy the deficiencies of the combination of Friedlander, Haas and Tajima. Claims 20, 56, 72, 76, and 81 recite that the free edges of the release sheet that extend beyond the fibrous layer and moldable layer have indicia. Ward shows indicia on the carpet backing, not the release sheet, and has no free edges. Thus, the asserted combination does not meet the features of the claims. Claims 20, 21, 56, 72, 76, and 81 are allowable.

Claims 27-33, 39, 40, and 60 are rejected under 35 U.S.C. §103(a) as being unpatentable over Friedlander and Haas in view of U.S. Patent No. 5,475,952 to O'Connor.

O'Connor is cited as teaching of a treated lumber covering applied to the surface of a board that protects the users from the possibility of splinters. It is asserted in the Office Action that it would have been obvious to have provided the treated lumber covering using the material of Friedlander as modified by Haas in order to have a covering on a treated lumber surface that protects the users from the possibility of splinters as taught by O'Connor.

O'Connor does remedy the deficiencies of Friedlander and Haas as addressed above with respect to claim 1. For at least this reason, claim 27 is allowable.

Claim 28 is directed to a treated lumber covering comprising an elongated carpet strip with a back surface having a flaccid foil laminated thereto and a thick adhesive layer applied to the foil that forms a moldable surface with an adhesive tack for permanent attachment to the treated lumber that creates a dermal barrier. Neither Friedlander, Haas nor O'Connor teaches of a flaccid foil. Friedlander's foil is shape retaining, and O'Connor's support layer is formed of extruded plastics with ribs 30A. O'Connor's support layer is formed to provide structural strength so that the strip remains arched. There is simply no teaching in either reference of a flaccid foil as claimed. Claim 28 is not rendered obvious by Friedlander as modified by Haas and O'Connor and is allowable.

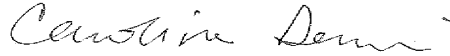
Dependent claims 29, 31, and 32 are allowable for at least the above reasons and for the additional features recited therein. Claims 39 and 40 depend from claim 36 and are allowable for at least the above reasons with respect to claim 36 as O'Connor does not remedy the deficiencies of Friedlander with respect to claim 36. Claim 60 depends from claim 57 and is allowable for at least the above reasons with respect to claim 57 as O'Connor does not remedy the deficiencies of Friedlander with respect to claim 57.

Claims 34 and 35 are rejected under 35 U.S.C. §103(a) as being unpatentable over Friedlander in view of O'Connor as applied to claim 28 and further in view of Ward. However, the rejection of claim 28 is also based on Haas. It is unclear whether this rejection removes Haas or whether this is an error.

Ward is cited as teaching of indicia, but does not remedy the deficiencies of Friedlander and O'Connor. Further, Ward does not teach of indicia on release sheets. Claims 34 and 35 are not rendered obvious by the asserted combination and are allowable.

It is respectfully submitted that the claims are allowable and that the application is in condition for allowance. A prompt notice to that effect is respectfully requested. Should further issues require resolution prior to allowance, the Examiner is requested to telephone the undersigned.

Respectfully submitted,



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